

# Drug Court Task Force Resumes

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Office of  
**OCI**  
Court Improvement

OFFICE OF THE STATE COURTS

THE OCI FILES

On November 7, 2006 the Supreme Court Task Force on Treatment-Based Drug Courts convened in Tallahassee. This was the first Task Force meeting of the 2006-2008 term. Circuit Judge Terry D. Terrell was reappointed as chair of the Task Force, and Justice Peggy A. Quince is the Supreme Court liaison.

The meeting recognized the many accomplishments that the Task Force achieved during its previous term, while examining new objectives with which the Task Force has been charged. For the complete list of charges see page two of this newsletter.

The Task Force will continue its leadership to promote and enhance treatment-based drug courts throughout Florida. Currently, the Task Force and OCI staff is working to finalize a best practices tool kit for Florida's adult drug courts, projected for distribution in January 2007. Also, OCI staff is in the planning process of providing juvenile drug court implementation training to five judicial circuits in the spring of 2007 and is presently assisting the Florida Association of Drug Court Professionals (FADCP) in planning the 2007 Florida Drug Court Conference slated for April 26-27, 2007 in Orlando, Florida.

For more information on these projects and drug court in general, please contact Aaron Gerson at (850) 488-4920.

## New Juvenile Delinquency Manual

The Juvenile Delinquency Manual is designed to be a useful resource to court personnel in navigating the major rewrite to Chapter 985, Florida Statutes, (Chapter 2006-120, Laws of Florida) enacted by the Florida Legislature during the 2006 legislative session.

Chapter 985 defines and describes how the courts and the Department of Juvenile Justice address juvenile delinquency. The manual includes a chart that compares the location of particular provisions of Chapter 985 under the old vs. rewritten statute, a flow-chart of

key events in juvenile delinquency proceedings, and tables of critical timeframes, a bench checklist, and a chart summarizing the assessment and detention options for different types of offenses as identified by Chapter 985. The manual will also include the text of the revised Chapter 985.

The manual will be available January 1, 2007 and copies may be obtained by requesting a

copy by e-mail, addressed to [mil-tona@flcourts.org](mailto:mil-tona@flcourts.org) or calling the Office of Court Improvement at (850) 414-1507.



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# Charges of the 2006-2008 Task Force on Treatment-Based Drug Courts

The article on the front page of this newsletter discussed the new term of the Task Force on Treatment-Based Drug Courts. Below you will find some excerpts from the Florida Supreme Court Administrative Order (No. AOSC06-51) that extended the term of the Task Force including the specific tasks with which they were charged.

The purpose of the Task Force on Treatment-Based Drug Courts is to make recommendations on the legal, policy, and procedural issues confronting treatment-based drug courts and explore the extent to which this concept can provide a meaningful solution to the devastating effect of substance abuse on our society. During its most recent term, the Task Force on Treatment-Based Drug Courts continued its leadership in promoting the use of drug courts and in bringing together representatives of the Judicial Branch, Executive Branch, and non-governmental entities in partnership toward the common goal of reducing substance abuse within the State of Florida.

The term of the Task Force is hereby extended until June 30, 2008. Over the next two years, the

Task Force shall perform the following tasks:

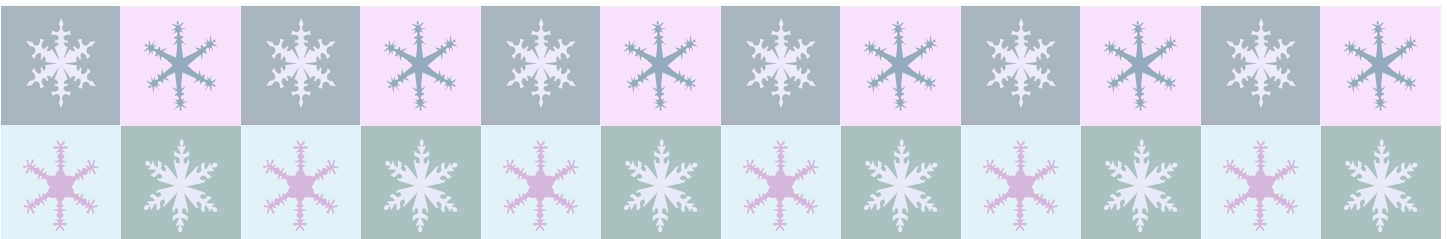
1. Develop a report to the Court on the long-term sustainability of drug courts.
2. Consistent with the requirements of Administrative Order AOSC06-20, consider and make recommendations regarding the appropriate scope of confidentiality in drug court cases. The Task Force shall file its recommendations in petition form with the Clerk of the Florida Supreme Court.



3. In conjunction with the Florida Court Education Council and Court Education staff within the Office of the State Courts Administrator, develop a proposal for continuing education and training of drug court team members and other justice system personnel on substance abuse issues and the application of

problem-solving court methods to address those issues.

4. Develop a proposal for statewide drug court evaluation and explore funding sources to support such an evaluation.



# Charges of the 2006-2008

## Steering Committee on Families and Children in the Court

The Steering Committee on Families and Children in the Court is charged with the following tasks for its 2006 to 2008 term:

1. Examine the role of courts in dependency cases in which children leave the foster care system without a permanent family, such as when the child reaches adulthood and “ages out” of the foster care system. Based on this examination, the Steering Committee shall develop recommendations for courts handling these cases and formulate an action plan for implementing those recommendations by the court system.

2. Create a subcommittee to study and examine the scope, impact, and relationship of mental health issues with regard to individuals involved in the justice system. Based on this study and examination, develop recommendations for courts to address, process, and deal with individuals having mental health issues and formulate an action plan for implementation of the recommendations by the court system.

3. Develop a video on the dependency system for use in courthouses to inform parents about how dependency cases proceed and the types of things parents may expect to happen in their cases.

4. Consistent with the requirements of In re: Implementation of Report and Recommendations of the Committee on Privacy and Court Records

No. AOSC06-20 (Fla. June 30, 2006):

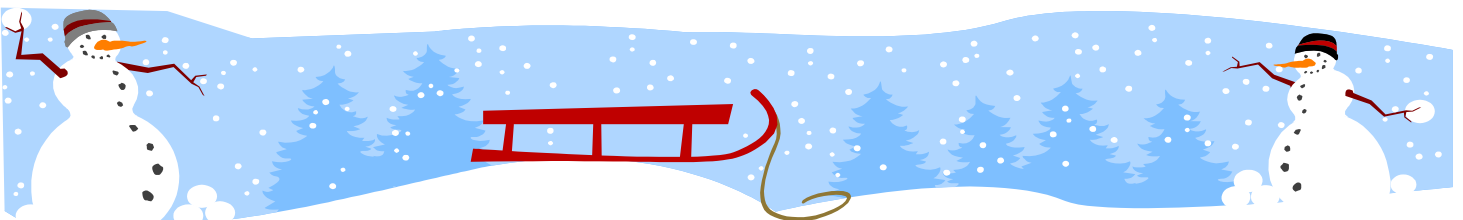
Consider and make recommendations on the sealing of psychosocial evaluations, psychological evaluations, and guardian ad litem reports filed in family court cases and, if necessary, propose amendments to the rules of court procedure to effectuate those recommendations; and

Review the Supreme Court Approved Family Law Forms to determine if personal information that is not necessary for adjudication or case management is being required in the forms.

5. Develop a standardized child support order for use throughout the state that will provide the Department of Revenue with the uniform information the Department needs for establishment and enforcement purposes.

6. Design a means to regularly collect meaningful data that will help to improve judicial case management of civil domestic violence cases.

7. Examine existing court rules that impact the implementation of the unified family court concept. Based on this examination, develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and any other system or process to enhance the operation of the unified family court concept.



# When Domestic Violence and Dependency Meet

Domestic violence laws focus on protecting those who are or may become victims of violence by a family or household member. Dependency laws focus on protecting the safety, health, and welfare of children who are or may be abused, abandoned, or neglected. All can agree that both of these goals are noble, but when domestic violence and children are present in the same home competing interests often create conflicting notions on how to appropriately handle the situation.

Two recent Florida cases illustrate some of the issues that arise when domestic violence and dependency cases meet. In both of these cases, the trial courts initially found the children to be dependent as to both the father (the alleged abuser in both cases) and the mother.

From the Fourth District there is T.S. v. Dep't of Children and Families, 31 Fla. L. Weekly D2170 (Fla. 4<sup>th</sup> DCA August 16, 2006). In this case, the trial court found that there was substantive, competent evidence to show that there was "an ongoing issue of domestic violence between [the father] and [the mother], and that [the mother] has done little to take action in protecting herself and her children from [the father's] actions." While the trial court found the children to be dependent as to both parents, the court held that the only corrective action that needed to be taken was to require both parents to complete a Domestic Violence/Anger Management class. The appellate court reversed the finding of dependency holding that insufficient evidence was presented for the trial court to make a finding of dependency.

One issue that is clearly illustrated by this case is the need to present the trial court with specific fact evidence. The trial court was presented with evidence that the mother had twice filed petitions for injunctions for protection against domestic violence but neither resulted in a restraining order, therefore neither could be considered substantiated. The opinion notes that the mother "claimed she [filed for injunctions] only because DCF suggested it as a measure to keep her children." The trial court was also presented with evidence that the father was "combative" and "kicked or threw a chair" outside of the home which hit the home's door, and that the mother was "visibly upset." As a result the appellate court held that "the record does not contain competent, substantial evidence establishing an ongoing pattern of domestic violence" to uphold the trial court's finding of de-

pendency.

In the Third District, Y.P. v. Department of Children and Family Services, 939 So.2d 1118 (Fla. 3<sup>rd</sup> DCA October 4, 2006) affirmed a finding of dependency as to the father. The mother's separate appeal was affirmed without opinion. The evidence presented in this case included specific violent acts such as punching holes in a wall while the children were present, the father hitting the mother with a stick, and the father threatening to "move to another country where he could beat his wife and kids when he wanted to, and even kill his wife if he decided to do so."

DCF removed the children due to domestic violence in the home and placed the children with family friends. Both parents were given supervised visitation with the children. Based on the specific facts presented at trial, the trial court found that the father had physically and emotionally abused and neglected the children by engaging in acts of domestic violence in the presence of the children.

The appellate court noted that "section 39.501 (2), Florida Statutes (2005), provides that '[t]he purpose of a petition seeking the adjudication of a child as a dependent child is the protection of the child and not the punishment of the person creating the condition of dependency.'"

The appellate court held that the evidence presented to the trial court amply supported the trial court's findings.

As this case was specifically the appeal of the father, the full details of the case against the mother are not clear. The opinion does indicate, however, that the trial court noted that both parents rejected any services offered by DCF.

Victims of domestic violence are often non-offending parents who have the best interests of their children at heart and who frequently, in their own way, are indeed doing what they can to protect their children. The Department of Children and Families, their investigators, and case workers are required to have a focus on the protection of children who are potentially in harms way of the abuser's violence. Balancing the needs of victims of domestic violence with the need to protect children is clearly a daunting challenge.



## More About Dependency and Domestic Violence

As the article on page four indicates, there are a number of complex legal issues in cases involving both intimate partner violence and child abuse or neglect. The importance of the juncture of these issues is further illustrated by the following information from the Florida Department of Children and Families (DCF) HomeSafenet Report, Fiscal year 2003-04.

During Fiscal Year 2003-04, DCF received 506,855 reports of child abuse or neglect. 66,848 reports (13.19% of all reports) were based on the "Family Violence Threatens Child" category of maltreatment. The investigations of these cases resulted in the following findings relative to the maltreatment alleged:

33.5% of cases were verified;

35.6% of cases had some indication; and,

30.3% of cases showed no indication.

Of the children involved in the "Family Violence Threatens Child" report category, 25% were under the age of 3; 68% were under the age of 10.

The median length of stay for out-of-home care for children removed from the home due to domestic violence was 9.75 months.

The Office of Court Improvement continues to work on improving the effectiveness of our courts in handling family cases. For further information about these issues, please feel free to contact Nathan Moon, Senior Attorney at (850) 922-5099 ([moonn@flcourts.org](mailto:moonn@flcourts.org)), Joanne Snair, Senior Court Analyst II at (850) 410-1889 ([snairj@flcourts.org](mailto:snairj@flcourts.org)) or Linda McNeill, Senior Court Analyst II at (850) 414-8868 ([mcneill@flcourts.org](mailto:mcneill@flcourts.org)).



The Steering Committee on Families and Children in the Court (FCC) began its 2006-2008 term with Chief Justice Fred Lewis appointing Second Judicial Circuit Judge Nikki Ann Clark as the committee's chair. Judge Clark developed, implemented and currently presides over the Second Circuit's Unified Family Court Crossover Docket. She is committed to applying her knowledge and experience to inform and guide the FCC in its mission to continually improve and refine the manner in which the Florida State Courts System serves families and children.

The FCC's initial meeting of this term was held October 23, 2006 in Tallahassee. Chief Justice Lewis opened the meeting. He affirmed the importance of the committee and the committee's work. He also introduced Judge Nikki Ann Clark, the FCC Chair, and Justice Barbara Pariente, Supreme Court liaison to the FCC. He stated his desire to add to the success of the FCC thus far and further emphasized the importance of the committee's charge to examine the impact of mental health issues in court proceed-

ings, and the committee's work to review the rules related to Unified Family Court (UFC).

The Chief Justice has charged the FCC with seven projects this term, each of which possesses the objective to better serve Florida's children and families. Judge Clark divided the twenty-four returning and newly appointed FCC members into subcommittees, assigned a charge to each subcommittee, and expanded each subcommittee's membership to include additional members from other state agencies and organizations.

The next FCC meeting will be a two day meeting January 29-30, 2007 and will be held again in Tallahassee. FCC members and additional subcommittee members will meet with their assigned subcommittee the first day to collaborate and work on their individual charge. The second day will be attended by full committee members only. The Office of Court Improvement will continue to staff this committee and if you have any questions about the FCC please contact Rose Patterson or Dana Dowling at (850) 414-1507.

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**OCI Launches New Intranet Site**

The Office of Court Improvement (OCI) has a new page on the Florida State Courts intranet site. The intranet differs from the internet by displaying information that is primarily directed to, and for the benefit of, the judiciary and court personnel for internal use. For instance, information relating to judicial conferences or public appearances by judges can be found on the intranet. For security reasons, such information may not be appropriate on the internet with its much broader audience.

The OCI intranet page offers statewide directories of judges, court personnel, and stakeholders as well as information on the Judicial Case Management Information System (JCMIS).

To access this site, visit <http://intranet.flcourts.org/>; click on "OSCA" at the top of the page; then click on "Office of Court Improvement."